

COMOMAGINST 5811.1E
Code N1
15 DEC 1997

COMOMAG INSTRUCTION 5811.1E

Subj: DUTIES OF PRELIMINARY INQUIRY OFFICERS

Ref: (a) Rules for Courts-Martial 303, Manual for Courts-Martial, 1996
(b) Uniform Code of Military Justice
(c) JAGINST 5800.7C (JAGMAN)

Encl: (1) Report and Disposition of Offense(s) (NAVPERS 1626/7)
(2) Sample appointing letter
(3) Instructions for Preliminary Inquiry Officers
(4) Investigator's Report and Worksheet (COMOMAG Form 5811/1)
(5) Witness' Statement Form (COMOMAG Form 5811/2)
(6) Suspect's Rights Acknowledgment/Statement (Article 31(b), UCMJ)
(7) Accused's Notification and Election of Rights (Pre-mast)
(8) Accused Acknowledgement of Appeal Rights (Post-mast)

1. Purpose. To promulgate instruction pertaining to the duties of Preliminary Inquiry Officers (PIO).

2. Cancellation. COMOMAGINST 5811.1D.

3. Information

a. Reference (a) requires the Commander, upon receipt of charges or information indicating that a member of the command has committed an offense punishable under reference (b), to cause to be made a preliminary inquiry into the case sufficient to permit an intelligent disposition of the matter. This may consist only of an examination of the charges and a summary of the expected evidence which accompanies them, while in other cases it may involve a more extensive investigation.

b. Investigations into sexual harassment cases will be referred to the Staff Equal Opportunity Officer for appropriate and immediate action.

c. An informative preliminary inquiry report is of utmost importance to the proper administration of military justice. The report is utilized initially by the Commander in determining the proper disposition of the case.

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d. This instruction uses a check-off sheet to assist preliminary inquiry officers in performing all required procedures and collecting all necessary evidence.

4. Action

a. The Chief Staff Officer (CSO) shall:

(1) Upon receipt of Report and Disposition of Offenses(s) (NAVPERS 1626/7) (enclosure (1)) indicating an offense has been committed by a member of the command, appoint a Preliminary Inquiry Officer (PIO), in writing under the guidance of reference (c), if an investigation is considered appropriate. A sample appointing order is provided at enclosure (2). The PIO should be a senior member of the command (E-7 and above) and senior to the individual being investigated.

(2) Assign a completion date of three working days, unless the investigation warrants more time.

(3) Review the report of the PIO. The CSO may remand the report for further investigation where appropriate.

(4) Notify the Command Master Chief and Legal Officer of the time and date of the Chief Petty Officer Disciplinary Review Board (CPO DRB).

(5) Notify the Chief Master-at-Arms and Legal Officer of the time and date of CSO screening, as applicable.

(6) Coordinate the date and time of mast, as applicable.

b. The Preliminary Inquiry Officer (PIO) will:

(1) Proceed in accordance with enclosure (3).

(2) Collect and examine all evidence and interview all personnel essential to a determination of the guilt or innocence of the accused, as well as evidence in mitigation or extenuation, using enclosures (4) and (5) as applicable.

(3) Ensure that enclosure (6) is completed prior to interviewing the accused.

(4) Ensure the accused reads and signs enclosure (6) and the report chit and continuation pages, as applicable.

(5) Complete an investigation report utilizing the format provided in enclosure (4).

(6) Return the completed investigation to the Legal Officer.

c. The Legal Yeoman will:

(1) Prepare a smooth report chit and provide copies of all forms required by PIO to complete the investigation as part of report chit package.

(2) Attach a copy of the charge definition found at reference (a) to the report chit package.

(3) Obtain member's service record for completion of report chit and use at CPO DRB, CSO Screening and CO's Mast, as applicable.

(4) Assist PIO with preparation of investigative report.

d. The Command Master Chief will:

(1) Review member's service record and Division Officer's record for prior offenses.

(2) Arrange a CPO DRB comprised of a minimum of four enlisted members (E-7 or above) to review the completed investigation.

(3) The CPO DRB will submit written recommendations on disposition of the case to the CSO including amounts and types of punishment, as applicable.

f. The Legal Officer will:

(1) Draft smooth report chit for Legal Yeoman preparation.

(2) Assist the PIO when necessary.

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(3) Review PIO's report before the CPO DRB and CSO screening.

(4) Ensure all paperwork and notifications have been completed prior to the individual(s) going to mast.

(5) Fill out enclosure (7) with accused before mast and enclosure (8) after mast. Arrange appointments for accused to consult with legal counsel as appropriate for pre-mast advice.

(6) Assist in the preparation of appeals and make appropriate legal appointments for the accused as necessary.

(7) Ensure appropriate service record entries are made following mast.

(8) Ensure copies of all completed report chits are filed in the Unit Punishment Log in accordance with reference (c).

M. J. GREEN

Distribution:
COMOMAGINST 5216.1R
Lists I and II

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Report and Disposition of Offense(s) (NAVPERS 1626/7)

REPORT AND DISPOSITION OF OFFENSE(S)

To: Commanding Officer, _____ Date of Report: _____

1. I hereby report the following named person for the offense(s) noted: _____

| NAME OF ACCUSED | SERIAL NO. | SOCIAL SECURITY NO. | RATE/GRADE | BR. & CLASS | DIV/DEPT |
|-----------------|------------|---------------------|------------|-------------|----------|
| | | | | | |

| PLACE OF OFFENSE(S) | DATE OF OFFENSE(S) |
|---------------------|--------------------|
| | |

DETAILS OF OFFENSE(S) (Refer by article of UCMJ, if known. If unauthorized absence, give following info: time and date of commencement, whether over leave or liberty, time and date of apprehension or surrender and arrival on board, loss of ID card and/or liberty card, etc.): _____

| NAME OF WITNESS | RATE/GRADE | DIV/DEPT | NAME OF WITNESS | RATE/GRADE | DIV/DEPT |
|-----------------|------------|----------|-----------------|------------|----------|
| | | | | | |
| | | | | | |

(Rate/Grade/Title of person submitting report)

(Signature of person submitting report)

I have been informed of the nature of the accusation(s) against me. I understand I do not have to answer any questions or make any statement regarding the offense(s) of which I am accused or suspected. However, I understand any statement made or questions answered by me may be used as evidence against me in event of trial by court-martial (Article 31, UCMJ).

Witness: _____ Acknowledged: _____
(Signature) (Signature of Accused)

| | | |
|-------------------------|--|---|
| PRE-ARREST RESTRAINT | <input type="checkbox"/> PRE TRIAL CONFINEMENT | <input type="checkbox"/> RESTRICTED: You are restricted to the limits of _____ in lieu of arrest by order of the CO. Until your status as a restricted person is terminated by the CO, you may not leave the restricted limits except with the express permission of the CO or XO. You have been informed of the times and places which you are required to muster. |
| | <input type="checkbox"/> NO RESTRICTIONS | |

(Signature and title of person imposing restraint)

(Signature of Accused)

INFORMATION CONCERNING ACCUSED

| CURRENT ENL. DATE | EXPIRATION CURRENT ENL. DATE | TOTAL ACTIVE NAVAL SERVICE | TOTAL SERVICE ON BOARD | EDUCATION | GCT | AGE |
|-------------------|------------------------------|----------------------------|------------------------|-----------|-----|-----|
| | | | | | | |

| MARITAL STATUS | NO. DEPENDENTS | CONTRIBUTION TO FAMILY OR OTRS ALLOWANCE (Amount required by law) | PAY PER MONTH (Including sea or foreign duty pay, if any) |
|----------------|----------------|---|---|
| | | | |

RECORD OF PREVIOUS OFFENSE(S) (Date, type, action taken, etc. Nonjudicial punishment incidents are to be included.) _____

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SAMPLE APPOINTING LETTER

5800
Date

From: Commander, Mobile Mine Assembly Group
To: Investigating Officer

Subj: INVESTIGATION TO INQUIRE INTO THE CIRCUMSTANCES
SURROUNDING THE (DESCRIPTION OF INCIDENT AND
INDIVIDUAL(S)
BEING INVESTIGATED) WHICH OCCURRED AT (WHERE) ON (DATE)

Ref: (a) JAGINST 5800.7C (JAGMAN)

1. Pursuant to reference (a), Chapter II, Part A, you are appointed to inquire, as of (date to commence investigation), into the circumstances surrounding the (description of incident and individual(s) being investigated) which occurred at (where) on (date).

2. You are to investigate all facts and circumstances surrounding the (description of incident). You must investigate the cause of the incident, resulting injuries and damages, potential claims for or against the government, and any fault, neglect, or responsibility therefore. You must express your opinion of the line of duty misconduct status of any injured naval member. You should recommend appropriate administrative or disciplinary action. Report your findings of fact, opinions, and recommendations by (3 working days), unless an extension of time is granted. In particular, your attention is directed to sections 0202, 0213, 0214, 0215, 0227, 0229 and Appendix A-2-e of reference (a), and Article 31(b) of the Uniform Code of Military Justice.

/S/

INSTRUCTIONS FOR
PRELIMINARY INQUIRY OFFICERS

1. Preliminary Inquiry Officer's (PIO's) will conduct investigations by executing the following steps in the order presented below. Reports will consist of the following:

- a. NAVPERS 1626/7, Report and Disposition of Offense(s);
- b. Investigator's Report including COMOMAG Form 5811/1 (enclosure (4)). This form provides a chronological checklist for conduct of the preliminary inquiry;
- c. For statements or summaries of interviews with all witnesses and supervisors (sworn statements will be obtained if practicable), use enclosure (5).
- d. Originals or copies of documentary evidence;
- e. If the accused waives all his/her rights, obtain a sworn statement or a summary of interrogation of the accused, signed and sworn to by the accused; or both. If accused elects to consult with counsel, consult the Legal Officer before obtaining a statement from the accused. Include a completed Suspect's Rights Acknowledgement/Statement, (enclosure (6)).

2. Objective

a. The primary objective of the PIO is to collect all available evidence pertaining to the alleged offense(s). As a first step, the PIO should be familiar with those paragraphs of the Manual for Courts-Martial, 1996, describing the offense(s). Each of the common offenses is described in Part IV, MCM, 1996. Within each paragraph is a section entitled "elements" which lists the elements of proof for that offense. The PIO must be careful to focus on the correct variation. It is suggested that the elements of proof be copied down to guide the PIO in searching for the relevant evidence. The PIO is to look for anything which tends to prove or disprove an element of proof. Note the dual requirements of this function -- the PIO is to be impartial.

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b. The secondary objective of the PIO is to collect information about the accused which will aid the Commanding Officer in making a proper disposition of the case and, in the event nonjudicial punishment is to be imposed, what the appropriate punishment, if any, should be. Items of interest to the Commander include: the accused's currently assigned duties; evaluation of his/her performance; his/her attitudes and ability to get along with others; and particular personal difficulties or hardships which the accused is willing to discuss. Information of this sort is best reflected in the statements of the accused's supervisors, peers, and the accused.

3. Interrogate the witnesses first (not the accused)

a. In most cases, a significant amount of the information must be obtained from witnesses. The person initiating the report and the persons he has listed as witnesses are starting points. Other persons having relevant information may be discovered during the course of the investigation.

b. The PIO should not begin by interrogating the accused. The accused is the person with the greatest motive for lying or otherwise distorting the truth, if in fact the accused is guilty. Before encountering such a person, the interrogator should be thoroughly prepared. Therefore, meeting with the accused should be left until last. Even when the accused confesses guilt, the PIO should, nevertheless, collect independent evidence corroborating the confession.

c. Witnesses who have relevant information to offer should be requested to make a sworn statement. Where a witness is interviewed by telephone and is unavailable to execute a sworn statement, the PIO must summarize the interview and certify it to be true.

d. In interviewing a witness, the PIO should seek to elicit all the relevant information from him. One method is to start with a general survey question, asking him to relate everything he knows about the subject of inquiry, and then following up with specific questions. After conversing with the witness, the PIO should assist him in writing out a statement that is thorough, relevant, orderly and clear. The substance must always be the actual thoughts, knowledge, or beliefs of the

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witnesses; the assistance of the PIO must be limited to helping the witness express himself accurately and effectively in a written form. The witness may write his statement on a copy of enclosure (3).

4. Collect the documentary evidence. Documentary evidence such as Shore patrol reports, log entries, watchbills, service record entries, local instructions or organization manuals, etc., should be obtained. The original or a certified copy of relevant documents should be attached to the report. As an appointed investigator, the PIO has the authority to certify copies to be true by subscribing the words "CERTIFIED TO BE A TRUE COPY" with his signature.

5. Collect the real evidence. Real evidence is a physical object, such as the knife in an assault case or the stolen camera in a theft case, etc. Before the PIO seeks out the real evidence, if any, he must familiarize himself completely with the Military Rules of Evidence concerning rules on searches and seizures. If the item is too big to bring to a nonjudicial punishment hearing or into a courtroom, a photograph should be taken of it. If real evidence is already in the custody of a law enforcement agency, it should be left there unless otherwise directed. The PIO should inspect it personally.

6. Advise the accused of his/her rights during interrogation

a. Before questioning the accused, the PIO should also have the accused sign the acknowledgement line of the front of the completed NAVPERS 1626/7 and initial any additional pages of charges that may be attached. The PIO should sign the witness line on the front of the NAVPERS 1626/7 next to the accused's acknowledging signature.

b. Suspect's Rights Acknowledgement/Statement (enclosure (6)) has been provided to assure that the PIO correctly advises the accused of his/her rights in accordance with Article 31(b), UCMJ, before asking any questions. Filling in the page must be the first order of business when meeting with the accused. Only one witness is necessary, and that witness may be the PIO.

7. Interrogate the accused

a. The accused may be questioned only if he/she has

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knowingly and intelligently waived all of his/her constitutional and statutory rights. Such waiver, if made, should be recorded on the Suspect's Rights Acknowledgement Statement (Suspect's Statement). If the accused asks whether he/she should waive his/her rights, the PIO must decline to answer or give any advice on that question. He must leave the decision to the accused. Other than advising the accused of his/her rights as stated in paragraph 6b above, the PIO should never give any other form of legal advice to the accused. If the accused desires a lawyer, the Naval Legal Service Office military lawyers are available to give legal advice.

b. If the accused has waived all his/her rights, the PIO may then question him/her. It is suggested that the PIO begin in a low-key manner so as not to disquiet the accused. If the accused is inclined to lie or distort, permit them to do so at this point. Once the accused has spoken his/her piece, the PIO may probe with pointed questions and confront the accused with inconsistencies in his/her story or contradictions with other evidence. The PIO should, with respect to his own conduct, keep in mind that if a confession is not "voluntary", it cannot be used as evidence. To be admissible against the accused, a confession or admission which was obtained through the use of coercion, unlawful influence, or unlawful inducement is not voluntary. Some instances of coercion, unlawful influence, and an unlawful inducement in obtaining a confession or admission are: infliction of bodily harm (including questioning accompanied by deprivation of the necessities of life, such as food, sleep, or adequate clothing); threats of bodily harm; imposition or threats of confinement, or deprivation of privileges or necessities; promises of immunity or clemency as to any offense allegedly committed by the accused; and promises of reward or benefit, or threats of disadvantage, likely to induce the accused to make the confession or admission.

c. If the accused is willing to make a written statement, make sure the accused has acknowledged and waived all of his/her rights. While the PIO may help the accused to draft the statement, he must be meticulous in refraining from putting words in the accused's mouth or from tricking the accused into saying something which he/she does not intend to say. If the

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draft is typed, the accused should read it over carefully and be permitted to make any changes he/she wishes. All changes should be initialed by the accused and witnessed by the PIO.

d. Oral statements, even though not reduced to writing, are admissible into evidence against a suspect. If the accused does not wish to reduce his/her statement to writing, the PIO must attach a certified summary of the interrogation to his report. Where the accused has reduced less than all of his/her statement to writing but has made a written statement, the PIO must add a certified summary of matters omitted from the accused's written statement.

COMOMAG FORM 5811/1 (Rev 10/97)

INVESTIGATOR'S REPORT AND WORKSHEET IN THE CASE OF

1. Read MCM paragraphs and attach copy of paragraphs
concerning the offense(s) charged: YES ()
() NO ()

2. Accused has read and initialed Suspect's Rights
Acknowledgement/Statement: YES
() NO ()

3. Accused read and acknowledged the report chit:
YES () NO ()

4. Accused signed the second page of the charges (if any):
YES () NO ()

5. Investigator signed the witness line on the report chit
and second page (if any):
YES () NO ()

6. Documentary evidence:

| <u>DESCRIPTION</u> | <u>ORIG</u> | <u>COPY</u> | <u>ATTACHED</u> |
|--------------------|-------------|-------------|-----------------|
| _____ | _____ | _____ | YES () |
| NO () | | | |
| _____ | _____ | _____ | YES () |
| NO () | | | |
| _____ | _____ | _____ | YES () |
| NO () | | | |

7. Witnesses interviewed:

| <u>NAME</u> | <u>PHONE</u> | <u>SIGNED STATEMENT</u> |
|-----------------|--------------|-------------------------|
| <u>ATTACHED</u> | | |
| _____ | _____ | YES () NO () |

Enclosure (4)

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| | | |
|-------|-------|----------------|
| _____ | _____ | YES () NO () |
| _____ | _____ | YES () NO () |

8. Accused's Division Officer/Supervisor(s) interviewed:

| <u>NAME</u> <u>ATTACHED</u> | <u>PHONE</u> | <u>SIGNED STATEMENT</u> |
|--------------------------------|--------------|-------------------------|
| _____ | _____ | YES () NO () |
| _____ | _____ | YES () NO () |
| _____ | _____ | YES () NO () |

9. Does the accused desire to make a statement? (Ensure member is advised of his/her rights (enclosure (6)) prior to making statement).

YES () NO ()

10. Accused was advised of NJP hearing rights and rights to refuse or waiver NJP (enclosure (7)).

YES () NO ()

11. Accused asked that the following person(s) speak at NJP on his/her behalf:

| <u>NAME</u> | <u>PHONE/WORK CENTER</u> |
|-------------|--------------------------|
| _____ | _____ |
| _____/_____ | _____ |
| _____ | _____ |
| _____/_____ | _____ |
| _____ | _____ |
| _____/_____ | _____ |
| _____ | _____ |
| _____/_____ | _____ |

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12. Accused was afforded the opportunity to review witness statements?

YES () NO ()

I have reviewed this investigation package and found it to be complete.

| | | | |
|-----------------------|------|---------------|------|
| Investigating Officer | Date | Legal Officer | Date |
|-----------------------|------|---------------|------|

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SAMPLE INVESTIGATOR'S REPORT

From: YNC John D. Wayne, USN, 111-22-3333
To: Commander, Mobile Mine Assembly Group

Subj: INVESTIGATION TO INQUIRE INTO THE CIRCUMSTANCES
SURROUNDING (BRIEF DESCRIPTION OF INVESTIGATION, I.E.
UNAUTHORIZED ABSENCE ICO
SN BEN A. PAPER, USN, 444-55-6666)

Ref: (a) COMOMAGINST 5811.1E

Encl: (1) COMOMAG Appointing Order
(2) Investigator's Worksheet
(3) Report of Offense (NAVPERS 1626/7)
(4) (List all enclosures such as witness statements, real
evidence, etc.)

Preliminary Statement

1. Per to enclosure (1), an investigation was conducted to inquire into the circumstances surrounding the (Situation, persons involved, date and place). All reasonably available evidence was collected.

Findings of Fact

(This section is used to break down evidence gathered. As the Investigating Officer, you relate to the CO the facts pertaining to the case. Facts are gathered from statements made and evidence used as enclosures. Present facts in a logical manner, i.e. chronologically. ALWAYS REFERENCE THE ENCLOSURE UPON WHICH THE FACT IS BASED). Examples:

1. SN Paper was reported UA by the Quarterdeck Watch at 0700, 26 December 1997. (Encl (3))

2. SN Paper signed the duty assignment sheet acknowledging he had duty. (Encl (5))

Opinions

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This section is used to relay your opinions relevant to the case and must reference a Finding of Fact. Examples:

1. Statements made by LT Smuckatelli are only rumor. (FOF 2)
2. In my opinion, SN Paper knew he had duty and just didn't want to stand it. (FOF 3)

Recommendations

1. This case should be (referred to Captain's Mast) (dismissed) (referred to court-martial). BE SURE TO HAVE SUFFICIENT FACTS/OPINIONS TO SUPPORT YOUR CONCLUSION.

P. I. OFFICER

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I swear (or affirm) that the information in the statement above
and on the attached page(s) is true to my knowledge or belief.

Witness Signature

Date

Time

Sworn to before me this date.

PIO Signature

Date

Time

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Suspect's Rights Acknowledgment/Statement (Article 31b, UCMJ)

Enclosure (6)

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CAPTAIN'S MAST (OFFICE HOURS)

ACCUSED'S NOTIFICATION AND ELECTION OF RIGHTS

ACCUSED NOT ATTACHED TO OR EMBARKED IN A VESSEL

**RECORD MAY BE USED IN AGGRAVATION IN EVENT OF LATER COURT-
MARTIAL**

Notification and election of rights concerning the contemplated
imposition of nonjudicial punishment in the case of

_____, SSN _____,
assigned or attached to _____.

NOTIFICATION

1. In accordance with the requirements of paragraph 4 of Part
V, MCM, 1996, you are hereby notified that the Commanding
Officer is considering imposing nonjudicial punishment on you
because of the following alleged offenses:

2. The allegations against you are based on the following
information:

3. You have the right to refuse imposition of nonjudicial
punishment. If you refuse nonjudicial punishment, charges could
be referred for trial by court-martial by summary, special, or
general court-martial. If charges are referred to trial by
summary court-martial, you may not be tried by summary court-
martial over your objection. If charges are referred to a
special or general court-martial you will have the right to be
represented by counsel. The maximum punishment that could be
imposed if you accept nonjudicial punishment is:

Enclosure (7)

4. If you decide to accept nonjudicial punishment, you may request a personal appearance before the Commanding Officer or you may waive this right.

a. Personal appearance waived. If you waive your right to appear personally before the Commanding Officer, you will have the right to submit any written matters you desire for the Commanding Officer's consideration in determining whether or not you committed the offenses alleged, and, if so, in determining an appropriate punishment. You are hereby informed that you have the right to remain silent and that anything you do submit for consideration may be used against you in a trial by court-martial.

b. Personal appearance requested. If you exercise your right to appear personally before the Commanding Officer, you shall be entitled to the following rights at the proceeding:

(1) To be informed of your rights under Article 31(b), UCMJ;

(2) To be informed of the information against you relating to the offenses alleged;

(3) To be accompanied by a spokesperson provided or arranged for by you. A spokesperson is not entitled to travel or similar expenses, and the proceedings will not be delayed to permit the presence of a spokesperson. The spokesperson may speak on your behalf, but may not question witnesses except as the Commanding Officer may permit as a matter of discretion. The spokesperson need not be a lawyer;

(4) To be permitted to examine documents or physical objects against you that the Commanding Officer has examined in the case and on which the Commanding Officer intends to rely in deciding whether and how much nonjudicial punishment to impose;

(5) To present matters in defense, extenuation, and mitigation orally, writing, or both;

(6) To have witnesses attend the proceeding, including those that may be against you, if their statements will be relevant and they are reasonably available. A witness is not reasonably available if the witness requires reimbursement by the United States for any cost incurred in appearing, cannot appear without unduly delaying the proceedings, or if a military witness, cannot be excused from other important duties; and

(7) To have the proceedings open to the public unless the Commanding Officer determines that the proceedings should be closed for good cause. However, this does not require that special arrangements be made to facilitate access to the proceeding.

5. In order to help you decide whether or not to demand trial by court-martial or to exercise any of the rights explained above should you decide to accept nonjudicial punishment, you may obtain the advice of a lawyer prior to any decision. If you wish to talk to a lawyer, a military lawyer will be made available to you, either in person or by telephone, free of charge, or you may obtain advice from a civilian lawyer at your own expense.

ELECTION OF RIGHTS

6. Knowing and understanding all of my rights as set forth in paragraphs 1 through 5 above, my desires are as follows:

a. Lawyer. (Initial one or more, as applicable)

_____ I wish to talk to a military lawyer before completing the remainder of this form.

_____ I wish to talk to civilian lawyer before completing the remainder of this form.

_____ I hereby voluntarily, knowingly, and intelligently give up my right to talk to a lawyer.

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(Signature of witness)

(Signature of accused)

(Date)

(Note: If the accused wishes to talk to a lawyer, the remainder of this form shall not be completed until the accused has been given a reasonable opportunity to do so.)

I talked to _____, a lawyer,
on _____.

(Signature of witness)

(Signature of accused)

(Date)

b. Right to refuse nonjudicial punishment. (Initial one)

_____ I refuse nonjudicial punishment.

_____ I accept nonjudicial punishment.

(Note: If the accused does not accept nonjudicial punishment, the matter should be submitted to the Commander for disposition.)

c. Personal appearance. (Initial one)

_____ I request a personal appearance before the
Commanding Officer.

_____ I waive a personal appearance.

_____ I do not desire to submit any written matters
for consideration.

_____ Written matters are attached.

(Note: The accused's waiver of personal appearance does

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not preclude the Commanding Officer from notifying the accused, in person, of the punishment imposed.)

d. Elections at personal appearance. (Initial one or more)

____I request that the following witnesses be present at my nonjudicial punishment proceeding:

____I request that my nonjudicial punishment proceeding be open to the public.

(Signature of witness)

(Signature of accused)

(Name of witness)

(Name of accused)

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(CAPTAIN'S MAST) (OFFICE HOURS)
ACCUSED'S ACKNOWLEDGMENT OF APPEAL RIGHTS
(SEE PARAGRAPH 7 OF PART V, MCM, 1995 AND JAGMAN 0116)

I, _____, SSN _____,
(Name and grade of accused)
assigned or attached to _____,
have been informed of the following facts concerning my rights
of appeal as a result of (Captain's Mast) (Office Hours) held on
_____:

a. I have the right to appeal to Commander, Mine Warfare
Command, Corpus Christi, Texas.

b. My appeal must be submitted within a reasonable time.
Five days after the punishment is imposed is normally considered
a reasonable time, in the absence of unusual circumstances. Any
appeal submitted thereafter may be rejected as not timely. If
there are unusual circumstances which I believe will make it
extremely difficult or not practical to submit an appeal within
the five day period, I should immediately advised the officer
imposing punishment of such circumstances, and request an
appropriate extension of time in which to file my appeal.

c. The appeal must be in writing.

d. There are only two grounds for appeal; that is:

(1) The punishment was unjust;

(2) The punishment was disproportionate to the
offense(s) for which it was imposed.

e. If the punishment imposed included reduction from the
pay grade of E-4 or above or was in excess of: arrest in
quarters for 7 days, correctional custody for 7 days, forfeiture
of 7 day's pay, extra duties for 14 days, restriction for 14
days, or detention of 14 day's pay, then the appeal must be
referred to a military lawyer for consideration and advice
before action is taken on my appeal.

Signature of Accused and Date

Signature of Witness and Date

Enclosure (8)

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_____ I do desire to appeal the punishment.

_____ I do not desire to appeal the punishment awarded.

_____ I understand I have until _____ to submit an appeal
should I elect to _____ do so, unless I specifically request an
extension as described in paragraph 1(b) above.